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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,987	04/12/2001	Rene Joachim Buter	F3259(C)	2082

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UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

YEUNG, GEORGE CHAN PUI

ART UNIT	PAPER NUMBER
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1761

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DATE MAILED: 09/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,987

Applicant(s)

Buter et al

Examiner

George Young

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days ~~MONTHS~~ FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-12 ☒ are pending in the application.
- ☐ Claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☒ Claim(s) 1-12 is/are objected to.
- ☐ _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some* ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a process for extruding ice cream, classified in class 426, subclass 516.
- II. Claims 7-10, drawn to an apparatus for extruding a plurality of ice cream flows, classified in class 425, subclass 131.1.
- III. Claims 11 and 12, drawn to an ice cream product, classified in class 426, subclass 101.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Group II as claimed can be used to practice another and materially different process, e.g., for use in extruding a non-edible material such as a thermoplastic material.

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the ice cream product of Group III as claimed can be made by another and materially different process, e.g., a process which does not include the steps of delivering a plurality of ice cream flows into a nozzle and dividing the ice cream flows into a plurality of additional flows within the nozzle before extrusion of the flows.

Inventions II and III are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the ice cream product of Group III as claimed can be made by another and materially different apparatus, e.g., an apparatus which does not include a nozzle comprising a plurality of entry ports, at least one conduit branches into a plurality of sub-conduits within the nozzle, and each sub-conduit being connected to an exit port.

Because these invention are distinct for the reasons given above and have acquired a separate status in the art requiring separate searches as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


Applicants mentioned in the February 15, 2002 Information Disclosure Statement (IDS) that copies of the documents including the foreign patents and the International Search Report in PCT/EP01/03550 are submitted therewith. However, no copies of the documents can be found attached to the Statement. In response to this Office action, applicants are requested to submit copies of the documents cited in the IDS and listed on the two PTO-1449 forms in order that they can be evaluated by the Examiner.

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Any inquiry concerning this communication should be directed to George Yeung at telephone number (703) 308-3848 and the fax phone number for the organization where this application is assigned is (703) 872-9310.

G. C. Yeung/mn

September 13, 2002



**GEORGE C. YEUNG
PRIMARY EXAMINER**